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8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No.: 2013 - 434

12 JORGE ROCHA-FERNANDEZ  
a.k.a. Jorge Rocha  
13 919 Capitola Avenue, Apt. #29  
Capitola, CA 95010  
14 Registered Nurse License No. 717369

**A C C U S A T I O N**

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

19 1. Complainant Louise R. Bailey, M.Ed., R.N., brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about December 21, 2007, the Board of Registered Nursing issued Registered  
23 Nurse License number 717369 to Jorge Rocha-Fernandez, a.k.a. Jorge Rocha (Respondent). This  
24 Registered Nurse license was in full force and effect at all times relevant to the charges brought in  
25 this Accusation and will expire on October 31, 2013, unless renewed.

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1       “(e) Taking such other action in relation to disciplining him as the board in its discretion  
2 may deem proper.”

3       7.     Section 2764 provides:

4       “The lapsing or suspension of a license by operation of law or by order or decision of the  
5 board or a court of law, or the voluntary surrender of a license by a licentiate shall not deprive the  
6 board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding  
7 against such license, or to render a decision suspending or revoking such license.”

#### 8                               STATUTORY AND REGULATORY PROVISIONS

9       8.     Section 490, subdivision (a), provides:

10       “In addition to any other action that a board is permitted to take against a licensee, a board  
11 may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if  
12 the crime is substantially related to the qualifications, functions, or duties of the business or  
13 profession for which the license was issued.”

14       9.     Section 2761 provides, in pertinent part:

15       “The board may take disciplinary action against a certified or licensed nurse or deny an  
16 application for a certificate or license for any of the following:

17       “(a) Unprofessional conduct . . . .

18       . . . .

19       “(f) Conviction of a felony or of any offense substantially related to the qualifications,  
20 functions, and duties of a registered nurse, in which event the record of the conviction shall be  
21 conclusive evidence thereof.”

#### 22                               COST RECOVERY

23       10.    Section 125.3, subdivision (a), provides, in pertinent part:

24       “Except as otherwise provided by law, in any order issued in resolution of a disciplinary  
25 proceeding before any board within the department . . . upon request of the entity bringing the  
26 proceedings, the administrative law judge may direct a licentiate found to have committed a  
27 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
28 investigation and enforcement of the case.”

1 FIRST CAUSE FOR DISCIPLINE

2 Criminal Conviction

3 (Bus. & Prof. Code §§ 490, subd. (a); 2761, subd. (f))

4 11. On or about September 21, 2011, at approximately 10:29 p.m., a police officer  
5 from the San Jose Police Department was dispatched to a call regarding a family disturbance.  
6 When the officer arrived on the scene, he could hear the loud yelling of a male and female  
7 coming from the open garage. The officer walked into the garage and saw Respondent sitting on  
8 a couch along with Victim 1. Victim 1 told the officer that she wanted Respondent to leave her  
9 garage. The officer instructed Respondent to leave the garage and wait on the other side of the  
10 driveway as he talked with Victim 1. Victim 1 told the officer that she was having relationship  
11 problems with Respondent and he was demanding to see their two children. Victim 1 said that  
12 Respondent was acting very irrational and she did not feel safe for him to be with the children.  
13 As the officer spoke with Victim 1, Respondent walked up behind the officer and started yelling  
14 at Victim 1. The officer noticed that Respondent was very agitated and animated, and that he was  
15 holding a computer case in his left hand and waving his right hand excitedly. Respondent was  
16 less than two feet away from the officer. The officer told Respondent to step back and go to the  
17 other side of the driveway near his vehicle. Respondent did not move, but continued yelling at  
18 Victim 1. The officer repeated for Respondent to step back and go to his vehicle and Respondent  
19 did not move.

20 12. The officer told Respondent a third time to move and that he was going to arrest  
21 him if he did not comply. Respondent refused to back away from the officer. The officer  
22 grabbed Respondent by Respondent's free right hand and used a rear wrist lock to control  
23 Respondent's body. Respondent began to struggle with the officer. The officer told Respondent  
24 three times to drop the computer case from his left hand and each time Respondent refused to let  
25 go of the computer case. The officer grabbed the computer case from Respondent's left hand and  
26 was able to safely handcuff Respondent. The office arrested Respondent and transported him to  
27 the San Jose County Jail where he was booked on charges of resisting an officer.

28 13. Respondent has subjected his Registered Nurse License to disciplinary action under  
Code sections 490, subdivision (a), and 2761, subdivision (f), in that on or about November 7,

1 2011, in a criminal proceeding entitled *The People of the State of California vs. Jorge Rocha*  
2 *Fernandez*, in the Superior Court of California, Santa Clara County, Case Number C1117355,  
3 Respondent was convicted by a plea of guilty to one count of violating Penal Code section 148,  
4 subdivisions (A)(1) (resisting, delaying, obstructing an officer.) Respondent was sentenced to  
5 three (3) days in the county jail, two (2) years of court-ordered probation, and ordered to pay  
6 court-related fees in the amount of \$785.00.

7 SECOND CAUSE FOR DISCIPLINE  
8 Unprofessional Conduct - Criminal Conviction  
(Bus. & Prof. Code §§ 2761, subd. (a))

9 14. The allegations of paragraphs 11-13 are hereby realleged and incorporated by  
10 reference as if fully set forth.

11 15. Respondent has subjected his Registered Nurse License to disciplinary action under  
12 Code sections 2761, subdivision (a), for unprofessional conduct. As set forth in paragraphs 11-  
13 13 above, he was convicted of violating Penal Code section 148, subdivisions (A)(1) for resisting,  
14 delaying, or obstructing an officer.

15 THIRD CAUSE FOR DISCIPLINE  
16 Unprofessional Conduct – Resisting an Officer  
(Bus. & Prof. Code §§ 2761, subd. (a))

17 16. The allegations of paragraphs 11-13 are hereby realleged and incorporated by  
18 reference as if fully set forth.

19 17. Respondent has subjected his Registered Nurse License to disciplinary action under  
20 Code sections 2761, subdivision (a), for unprofessional conduct. As set forth in paragraphs 11-13  
21 above, he resisted, delayed, and/or obstructed an officer.

22 FOURTH CAUSE FOR DISCIPLINE  
23 Unprofessional Conduct – Cresthaven Nursing Home  
24 (Bus. & Prof. Code 2761, subd. (a))

25 18. Respondent has subjected his Registered Nurse License to disciplinary action under  
26 Code sections 2761, subdivision (a), for unprofessional conduct, in that on or about February 24,  
27 2011, the Board of Registered Nursing (Board) received a complaint from the California  
28 Department of Public Health Licensing and Certification Program regarding a complaint of elder

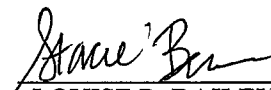
1 abuse/sexual misconduct against Respondent while he worked at the Cresthaven Nursing Home  
2 located in Santa Cruz, California. The California Department of Public Health Licensing and  
3 Certification Program conducted an investigation into the allegations that Respondent had patted  
4 a patient on her buttocks while taking her to the dining room. Multiple witnesses observed  
5 Respondent touching the patient on her buttocks on multiple occasions. When Respondent was  
6 interviewed by the Department of Justice, Bureau of Medi-Cal Fraud and Elder Abuse, he  
7 admitted to touching the patient on her buttocks.

8 PRAYER

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
10 and that following the hearing, the Board of Registered Nursing issue a decision:

- 11 1. Revoking or suspending Registered Nurse license number 717369, issued to Jorge  
12 Rocha-Fernandez, a.k.a. Jorge Rocha;
- 13 2. Ordering to Jorge Rocha-Fernandez, a.k.a. Jorge Rocha, to pay the Board of  
14 Registered Nursing the reasonable costs of the investigation and enforcement of this case,  
15 pursuant to Business and Professions Code section 125.3; and
- 16 3. Taking such other and further action as deemed necessary and proper.

17  
18 DATED: November 28, 2012

19 *for*   
20 LOUISE R. BAILEY, M.ED., R.N.  
21 Executive Officer  
22 Board of Registered Nursing  
23 Department of Consumer Affairs  
24 State of California  
25 Complainant

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